

ESTTA Tracking number: **ESTTA240732**

Filing date: **10/06/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Steambrook Pty Ltd.
Granted to Date of previous extension	10/05/2008
Address	101 Collins Street Level 53 Melbourne, 3000 AUSTRALIA
Attorney information	Roger P. Furey Katten Muchin Rosenman LLP 2900 K Street, NW Suite 200 Washington, DC 20007 UNITED STATES roger.furey@kattenlaw.com, rebecca.mcdougall@kattenlaw.com Phone:202.625.3500

Applicant Information

Application No	77303198	Publication date	04/08/2008
Opposition Filing Date	10/06/2008	Opposition Period Ends	10/05/2008
Applicant	The Little Seed, LLC 219 N. Larchmont Blvd. Los Angeles, CA 90004 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Retail store services featuring organic and environmentally friendly products in the field of women's and children's clothing, children's toys, bedding, mattresses and pillows, and baby accessories
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	78980598	Application Date	02/17/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SEED		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 025. First use: First Use: 2001/02/28 First Use In Commerce: 2006/06/30 Clothing, namely, shirts, t-shirts, polo tops, tank tops, sweatshirts, blouses, vests, sweaters, jumpers, pullovers, hooded knitwear tops, fleece tops, cardigans, pajamas, sleepwear, tracksuits, sweat pants, sweat shirts, loungewear, leggings, beachwear, rompers and infant and toddler one-piece clothing, newborn, baby and infant wear, gloves, mittens, socks, belts, shorts, gym short, skirts, dresses, pants, khaki pants, cargo pants, jeans, trousers, jackets, overalls, coats, rainwear, anoraks, suits, underwear, undergarments, hosiery, tights, scarves, ties, school uniforms, swimwear, bodysuits, aprons, cloth bibs, night gowns, robes, bonnets, footwear, slippers, caps, hats and headwear</p> <p>Class 035. First use: First Use: 2001/02/28 First Use In Commerce: 2006/06/30 Online retail stores featuring clothing, footwear and headgear, clothing and fashion accessories, leather and leather imitation products including belts, handbags, and toys</p>

U.S. Application No.	78817602	Application Date	02/17/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SEED		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: Clothing, namely, lingerie</p> <p>Class 035. First use: Wholesale ordering and retail services, namely, retail stores and mail order catalog featuring clothing, footwear and headgear, clothing and fashion accessories, jewelry, leather and leather imitation products including belts, handbags and wallets, home furnishings, furniture made from wood or substitutes for wood, textile and textile goods, optical apparatus and instruments of all kinds including spectacle glasses, sunglasses and containers, cases and frames in respect thereof, apparatus for lighting including lamps and toys; and retail services, namely, online retail stores featuring jewelry, leather and leather imitation products including wallets, home furnishings, furniture made from wood or substitutes for wood, textile and textile goods, optical apparatus and instruments of all kinds including spectacle glasses, sunglasses and containers, cases and frames in respect thereof and apparatus for lighting including lamps</p>		

Attachments	78980598#TMSN.jpeg (1 page)(bytes) 78817602#TMSN.jpeg (1 page)(bytes) NoOpp THE LITTLE SEED TREE HUGGING WITH STYLE.pdf (5 pages)(232486 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rebecca E. McDougall/
Name	Rebecca E. McDougall
Date	10/06/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 77/303,198
For **THE LITTLE SEED TREE HUGGING WITH STYLE**
Published in the Official Gazette on April 8, 2008

Steambrook Pty Ltd.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
The Little Seed, LLC)	
)	
Applicant.)	

Attorney Ref.: 215337.00027

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451
MAIL STOP BOX: TTAB-FEE**

NOTICE OF OPPOSITION

Opposer, Steambrook Pty Ltd. (hereinafter "Steambrook"), an Australian corporation, with its principal place of business at Level 53, 101 Collins Street, Melbourne, Victoria 3000 Australia hereby opposes registration of THE LITTLE SEED TREE HUGGING WITH STYLE that is the subject of Application Serial No. 77/303,198, published in the Official Gazette on April 8, 2008, and requests that registration to Applicant be refused. Steambrook avers that it would be damaged and injured if a registration for THE LITTLE SEED TREE HUGGING WITH STYLE as set forth in U.S. Application Serial No. 77/303,198 is issued to Applicant.

Pursuant to Section 2(d) of the Trademark Act of 1946, (as amended, the Lanham Act) 15 U.S.C. § 1052, and as grounds in support of its opposition, Steambrook asserts as follows:

1. Steambrook filed on February 17, 2006 U.S. Trademark Application Serial No. 78/980,598 for the mark SEED for use with the following goods and services:

- Clothing, namely, shirts, t-shirts, polo tops, tank tops, sweatshirts, blouses, vests, sweaters, jumpers, pullovers, hooded knitwear tops, fleece tops, cardigans, pajamas, sleepwear, tracksuits, sweat pants, sweat shirts, loungewear, leggings, beachwear, rompers and infant and toddler one-piece clothing, newborn, baby and infant wear, gloves, mittens, socks, belts, shorts, gym short, skirts, dresses, pants, khaki pants, cargo pants, jeans, trousers, jackets, overalls, coats, rainwear, anoraks, suits, underwear, undergarments, hosiery, tights, scarves, ties, school uniforms, swimwear, bodysuits, aprons, cloth bibs, night gowns, robes, bonnets, footwear, slippers, caps, hats and headwear, in International Class 25. The date of first use of the mark with these goods is February 28, 2001 and the first use date in the United States is June 30, 2006.
- Online retail stores featuring clothing, footwear and headgear, clothing and fashion accessories, leather and leather imitation products including belts, handbags, and toys, in International Class 35. The date of first use of the mark with these services is February 28, 2001 and the first use date in the United States is June 30, 2006.

2. Steambrook also owns U.S. Trademark Application Serial No. 78/817,602, for the mark SEED, based on an intent to use the mark with the following goods and services:

- Clothing, namely, lingerie, in International Class 25.
- Wholesale ordering and retail services, namely, retail stores and mail order catalog featuring clothing, footwear and headgear, clothing and fashion accessories, jewelry, leather and leather imitation products including belts, handbags and wallets, home furnishings, furniture made from wood or substitutes for wood, textile and textile goods, optical apparatus and instruments of all kinds including spectacle glasses, sunglasses and containers, cases and frames in respect thereof, apparatus for lighting including lamps and toys; and retail services, namely, online retail stores featuring jewelry, leather and leather imitation products including wallets, home furnishings, furniture made from wood or substitutes for wood, textile and textile goods, optical apparatus and instruments of all kinds including spectacle glasses, sunglasses and containers, cases and frames in respect thereof and apparatus for lighting including lamps, in International Class 35.

This application, Serial No. 78/817,602, also has a filing date of February 17, 2006. The trademarks referenced in Paragraphs 1 and 2 are collectively referred to as the “**Steambrook Marks.**”

3. Upon information and belief, Applicant, The Little Seed, LLC, is a California limited liability company, with an address at 219 N. Larchmont Blvd., Los Angeles, California 90004.

4. Notwithstanding Steambrook's prior rights in and to the **Steambrook Marks**, Applicant filed, on October 12, 2007, an application for THE LITTLE SEED TREE HUGGING WITH STYLE for use in connection with "Retail store services featuring organic and environmentally friendly products in the field of women's and children's clothing, children's toys, bedding, mattresses and pillows, and baby accessories" in International Class 35. Applicant filed this application under Section 1(b) of the Trademark Act, intent to use in commerce.

5. As set forth herein, Steambrook has used and/or has rights to the **Steambrook Marks** with retail store services and clothing well prior to the Applicant's filing date of its application, Serial No. 77/303,198.

6. There is no issue as to priority. The date of Applicant's filing of Serial No. 77/303,198 is October 12, 2007 which is subsequent to Steambrook's use dates, both in the U.S. and abroad, for the mark that is the subject of Serial No. 78/980,598, and subsequent to the U.S. filing dates for both of the **Steambrook Marks**. Therefore, Steambrook's rights to the **Steambrook Marks** are prior, senior, and superior to any rights Applicant may have to THE LITTLE SEED TREE HUGGING WITH STYLE that is the subject of Serial No. 77/303,198.

7. The designation, THE LITTLE SEED TREE HUGGING WITH STYLE, when used in connection with the published services set forth in App. Ser. No. 77/303,198, which include services so closely related to or identical to the goods and services offered under the **Steambrook Marks**, is likely to cause confusion, to cause mistake, or to deceive, in violation of 15 U.S.C. § 1052(d).

8. Registration of Applicant's designation THE LITTLE SEED TREE HUGGING WITH STYLE as set forth in Application Serial No. 77/303,198, will further damage Steambrook, as such registration will give color of exclusive statutory rights to THE LITTLE

SEED TREE HUGGING WITH STYLE to Applicant in derogation and violation of the prior rights of Steambrook to the **Steambrook Marks**.

9. Registration of Applicant's designation THE LITTLE SEED TREE HUGGING WITH STYLE as set forth in Application Serial No. 77/303,198, will further damage Steambrook, as any such concurrent registration by Applicant is likely to, and will, place a cloud on title on the **Steambrook Marks** and erode the value of the goodwill associated with the **Steambrook Marks**.

WHEREFORE, Opposer requests that its Opposition be sustained and that registration of Application No. 77/303,198 for THE LITTLE SEED TREE HUGGING WITH STYLE for the services specified in the application be denied.


The filing fees in the amount of \$300.00 for the filing of this opposition, and any additional fees should be charged to the Deposit Account of Katten Muchin Rosenman LLP, No. 50-1877.

Please address all communications Roger P. Furey, Esq. or Rebecca E. McDougall, Esq., Katten Muchin Rosenman LLP, 2900 K Street, N.W., Suite 200, Washington, DC 20007.

STEAMBROOK PTY LTD.

Dated: October 6, 2008

By:


Roger P. Furey, Esq.
Rebecca E. McDougall, Esq.
KATTEN MUCHIN ROSENMAN LLP
2900 K Street, N.W.
Suite 200
Washington, DC 20007
Tel: (202) 625-3500
Fax: (202) 295-1130
roger.furey@kattenlaw.com
rebecca.mcdougall@kattenlaw.com


CERTIFICATE OF SERVICE

Filing Date: October 6, 2008

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** for the mark **THE LITTLE SEED TREE HUGGING WITH STYLE** (U.S. Trademark Application No. 77/303,198) has been filed on behalf of Opposer, Steambrook Pty Ltd., with the United States Patent and Trademark Office, Trademark Trial and Appeal Board on the date indicated above, and was served on Applicant's counsel of record with the United States Patent and Trademark Office:

John C. McElwaine
Nelson Mullins Riley & Scarborough LLP
17th Floor
1320 Main Street
Columbia, South Carolina 29201

Via first-class mail, postage prepaid, this 6th day of October 2008.


Rebecca E. McDougall
KATTEN MUCHIN ROSENMAN, LLP
2900 K Street, N.W.
Suite 200
Washington, D.C. 20007
(202) 625-3500